

**UNITED STATES DISTRICT COURT**  
**for**  
**EASTERN DISTRICT OF NORTH CAROLINA**  
**WESTERN DIVISION**

**U.S.A. vs. Benjamin A. Hamilton**

**Docket No. 5:13-MJ-2044-1**

**Petition for Action on Probation**

COMES NOW Eddie J. Smith, probation officer of the court, presenting a petition for modification of the Judgment of Benjamin A. Hamilton, who, upon an earlier plea of guilty to 18 U.S.C. § 13, assimilating N.C.G.S. 20-138.1, Driving While Impaired (Level 5), was sentenced by the Honorable William A. Webb, U.S. Magistrate Judge, on March 11, 2014, to a 12-month term of probation under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall perform 24 hours of community service during the first 30 days of Probation as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required \$200 fee.
2. The defendant shall obtain a substance abuse assessment from an appropriate mental health facility within thirty (30) days from the date of this judgment and complete any prescribed treatment program. The defendant must pay the assessment fee and any added treatment fees that may be charged by the facility.
3. It is further ordered that the defendant shall participate in any other Alcohol/Drug Rehabilitation and Education program as directed by the U.S. Probation Office.
4. The defendant shall surrender his North Carolina driver's license to the Clerk of this Court for mailing to the North Carolina Division of Motor Vehicles and not operate a motor vehicle on the highways of the State of North Carolina except in accordance with the terms and conditions of a limited driving privilege issued by the appropriate North Carolina Judicial Official.

As a result of committing the offense of Driving While License Revoked (14CR712393) in Cumberland County, NC on June 23, 2014, the court modified the conditions of probation on June 27, 2014, to include the following:

The defendant shall perform 16 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required \$200 fee.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:** On August 29, 2014, the defendant was charged in Cumberland County, NC, with the offenses of Driving While License Revoked (14CR717277). The defendant reports that a friend who had been drinking needed a ride home. This is the same excuse the defendant provided the probation officer on the previous driving while revoked offense. The defendant has

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again been verbally reprimanded and reminded not to drive unless properly licensed. As a sanction for this conduct, we are recommending that the defendant be required to serve 30 days of home detention with electric monitoring.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

**PRAYING THAT THE COURT WILL ORDER** that probation be modified as follows:

The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 30 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer. The defendant shall pay for electronic monitoring services as directed by the probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

/s/ Robert K. Britt  
Robert K. Britt  
Senior U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Eddie J. Smith  
Eddie J. Smith  
U.S. Probation Officer  
310 Dick Street  
Fayetteville, NC 28301-5730  
Phone: (910) 483-8613  
Executed On: September 15, 2014

**ORDER OF COURT**

Considered and ordered this 15th day of September, 2014, and ordered filed and made a part of the records in the above case.

  
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James E. Gates  
U.S. Magistrate Judge